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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

KATMAI WATER TAXI, LLC,

Plaintiff,

v.

NW BEND BOATS, LLC d/b/a  
NORTH RIVER BOATS,

Defendant.

IN ADMIRALTY

NO. 3:21-cv-00110-SLG

TRAVELERS PROPERTY CASUALTY  
COMPANY OF AMERICA,

Plaintiff in Intervention,

v.

NW BEND BOATS, LLC d/b/a  
NORTH RIVER BOATS,

Defendant.

ATTORNEYS AT LAW

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**AMENDED ANSWER TO COMPLAINT IN INTERVENTION**

COMES NOW defendant NW Bend Boats LLC d/b/a North River Boats (“North River”) and by way of Answer to Intervenor’s complaint:

**THE PARTIES**

1. Admits on information and belief.
2. Denies.

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1 **JURISDICTION AND VENUE**

2 3. North River notes that this is an issue of law to be determined by the Court.  
3 To the extent an answer is required, North River admits personal jurisdiction is proper.

4 4. North River notes that this is an issue of law to be determined by the Court.  
5 Insofar as an answer is required, North River admits subject-matter jurisdiction is proper.

6 5. North River notes that this is an issue of law to be determined by the Court.

7 6. North River admits venue is proper.

8 **FACTUAL BACKGROUND**

9 7. North River denies the first sentence for lack of sufficient information and  
10 knowledge. North River admits the second sentence on information and belief.

11 8. North River denies for lack of sufficient information and knowledge; the  
12 denial applies in equal force to footnote 1.

13 9. North River admits North River and Katmai Water Taxi entered a series of  
14 Purchase Orders beginning on or about March 20, 2018, wherein Katmai Water Taxi  
15 ordered the subject vessel OTIS for an estimated \$708,000. North River further admits  
16 the purchase orders contained an entry for sea trials and U.S. Coast Guard approval.  
17 Except as specifically admitted, the allegation is denied.

18 10. North River admits Travelers provided hull and machinery coverage to the  
19 OTIS at the time of the alleged incident. North River further admits Katmai Water Taxi  
20 employee Rob Ellis ran the OTIS aground on or about June 1, 2019. Except as  
21 specifically admitted, the allegation is denied.

22 **THE ACCIDENT**

23 11. Admits.

24 12. Denies.

25 13. North River Admits the channel was navigated visually prior to the vessel's  
26 route being recorded onto the vessel GPS. North River further admits the GPS is

1 important equipment. North River denies the allegation concerning channel markers for  
2 lack of sufficient information and knowledge. Except as specifically admitted, the  
3 allegation is denied.

4 14. North River admits the engine room dampers were not fully opened and the  
5 OTIS returned to the launch point. Except as specifically admitted, the allegation is  
6 denied.

7 15. North River specifically denies the vessel was under Mr. Blocher's control.  
8 Otherwise, admits.

9 16. Denies.

10 17. North River admits the GPS backlighting made visibility of channel  
11 coordinates difficult from the vessel's helm. North River denies the characterization of  
12 the GPS system being non-functional and specifically denies the allegation of Mr. Blocher  
13 "electing to proceed." Except as specifically admitted, the allegation is denied.

14 18. North River specifically denies the final sentence. The first sentence is a  
15 question of law for the Court to decide. To the extent an answer is required, the allegation  
16 is denied.

17 19. North River denies Mr. Blocher asked "a passenger" to take the helm of the  
18 vessel, but admits Katmai Water Taxi agent and employee, Rob Ellis, a USCG-licensed  
19 captain, took the helm of the vessel while Mr. Blocher adjusted the GPS backlighting.

20 The remainder of the allegation is denied.

21 20. North River admits the OTIS was out of commission for a total of 37 days.  
22 Travelers' status as subrogee is a legal issue requiring no answer. Except as specifically  
23 admitted, the allegation is denied.

#### 24 **FIRST CAUSE OF ACTION—NEGLIGENCE**

25 21. North River incorporates and re-alleges its previous answer.

26 22. Denies, including all subparts.

1 23. Denies.

2 24. Denies.

3 **SECOND CAUSE OF ACTION—NEGLIGENT ENTRUSTMENT**

4 25. North River incorporates and re-alleges its previous answer.

5 26. Denies.

6 **THIRD CAUSE OF ACTION—BREACH OF CONTRACT**

7 27. North River incorporates and re-alleges its previous answer.

8 28. Denies.

9 29. Denies.

10 **DAMAGES**

11 30. North River incorporates and re-alleges its previous answer.

12 31. Denies.

13 32. Denies.

14 33. Denies.

15 **AFFIRMATIVE DEFENSES**

16 In further answer to Intervenor's complaint, defendant North River Boats pleads as  
17 affirmative defenses:

18 1. North River re-alleges its previous answer as an affirmative defense.

19 2. Intervenor fails in one or more of its causes of action to state a claim upon

20 which relief may be granted.

21 3. Intervenor's damages, herein denied, were caused or contributed by the

22 fault of its insured, Katmai Water Taxi. Intervenor's recovery, if any, should be barred or  
23 reduced accordingly.

24 4. Intervenor's damages, herein denied, were caused or contributed by the  
25 fault of others; Intervenor's recovery, if any, should be barred or reduced accordingly.

26 5. Intervenor has and had a duty to mitigate its damages; to the extent it has

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1 failed to do so, its recovery should be barred or reduced accordingly.

2 6. Intervenor's tort claims are barred by the economic loss rule.

3 7. One or more of Intervenor's claims are barred by the doctrine of laches.

4  
5 Wherefore, defendant North River prays:

6 1. That Intervenor's complaint be dismissed and it take nothing thereby.

7 2. That North River be awarded its costs and attorney fees as permitted by  
8 law, including under Alaska Rule of Civil Procedure 82.

9 3. That North River be entitled to such other relief as this Court finds just and  
10 equitable.

11 Dated this 7<sup>th</sup> day of June, 2021.

12  
13 BAUER MOYNIHAN & JOHNSON LLP

14 /s/ Donald K. McLean

15 Donald K. McLean, AKSB No. 0403006

16 /s/ Robert D. Sykes

17 Robert D. Sykes, AKSB No. 1809074

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